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IN THE

Supreme Court of the United States

OCTOBER TERM, 1962

No. 584

ANDREW J. EASTER,
Appellant

vs.

DEPARTMENT OF ASSESSMENTS OF BALTIMORE CITY,
Appellee

JURISDICTIONAL STATEMENT

On Appeal From The Court Of Appeals Of The State Of Maryland

ANDREW J. EASTER,
2801 Adams Mill Road, N.W.,
Apt. 108, Washington 9, D. C.,
(Adams 2-3874)

Appellant, In Proper Person

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JURISDICTIONAL STATEMENT

Appellant, Andrew J. Easter, In Proper Person, appeals from a final order of the Court of Appeals of the State of Maryland; dated and entered on May 8, 1962, affirming a final order—oral opinion of the Baltimore City Court of Baltimore City, Maryland. Said final order directed that the order of the lower court affirming the orders of the Maryland Tax Court will be affirmed. And that, The Court has considered the motion for reargument filed on June 7, 1962, in the above case No. 258, September Term, 1961, and, said motion was denied on June 14, 1962.

OPINIONS BELOW

The agency of original recommendation—the Department of Assessments of Baltimore City, by notice, on

a petition filed by the appellant on August 25, 1960, for a reduction of the illegal increase on the 1961 assessments, merely stated, no abatement.

The final assessing authority—the Board of Municipal and Zoning Appeals of Baltimore City, without taking testimony nor a transcript, by notice dated March 3, 1961, affirmed the action of the Department of Assessments.

The final appellate agency—the Maryland Tax Court after taking hurried testimony, etc., by notice dated June 22, 1961, ordered that the action of the above board was affirmed, the transcript was excepted to by the appellant due to inadequacy and not according to the actual proceedings.

In the appeal from the above agencies to the Baltimore City Court, the court after overruling various motions and a removal suggestion, and not reporting appellant's testimony, by final order—oral opinion, dated October 6, 1961, affirmed the Maryland Tax Court.

The Court of Appeals of the State of Maryland, per curiam, dated May 8, 1962, affirmed the orders of the lower court and thereafter denied a motion for reargument on June 14, 1962. The opinion of the Court of Appeals and the motion by the appellant for reargument are appended hereto as Exhibit A and Exhibit B.

JURISDICTION

(i) This case is a proceeding brought by appellant, August 25, 1960, pursuant to the Constitution of Maryland, Declaration of Rights, Article 15.—Uniformity of Taxation, and the Annotated Code of Maryland, Article 81.—Revenue and Taxes, to compel the Department of Assessments, the appellee, to perform the duty to provide a fair and equitable assessment on appellant's property by correcting the inequality caused by the various reductions

on the surrounding and adjoining comparables, and the illegal increases on appellant's property as high as 400% by wilfully subdividing the Right of Ways and the front acreage into lots. See: Appellee's Plat, Paper No. 48, Resp. Ex. 1,—E. 27, and Appellant's Plat, Paper No. 49, Appell. Ex. No. 1,—E. 28, and the Deeds, Paper No. 52, Apell. Ex. No. 4A, sheets No. 1-3—E. 33-37.

The proceeding brought by the appellant was to force the appellee to abide by the prior decisions made by the former State Tax Commission on September 24, 1958, on the Rehearing in the matter of Andrew J. Easter, dated June 12, 1958, Paper No. 53 of the original entire record filed with the clerk of this court, sent by registered mail September 25, 1962, See: Appellant's Transcript of the Rehearing, Appellant's Brief and Record Extract, E. 38-58, all the orders, papers, lists, motions, letters, including the Department of Assessments letter, acceding to abide by the decision of the State Tax commission* and plats, etc., of the said agencies and the lower courts are in the appendix of the Appellant's Brief and Record Extract which are herein filed with this statement.

As the former State Tax Commission had continuously reversed the said department in all of the prior cases in the pass from 1953 to and including 1960, as will be shown by the Lists of Property Assessments, Paper No. 45A,—E. 21 and Paper No. 45B, sheets 1-2,—E. 23-24. As the duty of the supervisor of assessments have power and are charged with the duty to *recommend* assessments, the duty of supervising assessments of property in this State equally among the taxpayers is *imposed* upon the State Tax Commission* as a *body of experts* and not among the courts. State Tax Comm.* v. Brandt Cabinet Works, 202 Md. 533, 97 A. 2d 290. And since there were no changes in the conditions in the neighborhood or locality of subject property there was no legal right or justification for disturbing the assessments, and as the various agencies

and the courts did not take appellant's testimony or failed to report and transcribe the same or hurried and made *errors*, etc., the appellee and the various appelate procedures ignored the failure of the appellee to follow the rule to serve upon the opposite party (5) days before the date set for the hearing, the Maryland Tax Court Record Papers listed as Respondent's Exhibit Nos. 2, 4-8, under Index to Appendix of Brief and Appendix of Appellee, wherein respondent's *exhibit No. 3* is conspiciously omitted, In RE: Docket cases 63 to 66, wherein the property assessor pretends to refer to Boeckh's Manual—Reproduction Cost—and stating #6420 Belair Road, Lot No. 14, @ *36¢* per cu. ft., and #6608 Belair Road, Lot 18, @ $5.31 per sq. ft., converted to the cube basis would be *39¢* per cu. ft. on the $20,100. basis and @ *25¢* on the $13,300. basis in comparison with the $165,000. theater located at #6650 Belair Road, Lot No. 18A, assessed @ *14¢* per cu. ft., assessed $30,600. or 1/5 of the actual cost and about 1/2 to 1/3 of appellant's assessments, etc., which is in violation of the tax laws, the Maryland Constitution and Article 1. Sect. 10., Article IV. Sect. 2., of the Constitution of the United States and due process of law or equal protection of the law, all of which rights have been requested throughout the entire proceeding. The appellee's Paper No. 8, Respondent's Exhibit No. 3, in Appellant's Brief and Record Extract, E. 4, as amended herein between Case Nos. 64-65, pages 20-21; the Brief and Appendix of Appellee is also filed with this statement.

(ii) The final order of the Court of Appeals herein was dated May 8, 1962, and was entered on the same date in the office of the clerk of said court.

The Notice of Appeal was sent to the office of the clerk of the Baltimore City Court, the court possessed of the record herein, date of affidavit September 7, 1962, and forwarded to the Court of Appeals of Maryland, filed September 12, 1962; Paper Nos. 66-71; thereafter various

letters, phone calls, etc., and by letter dated September 24, 1962, the entire original file was eventually forwarded to the clerk of the Supreme Court, which letter is attached to the above file.

(iii) The jurisdiction of this Court to review the decision of the Court of Appeals herein by appeal is conferred by Title 28, United States Code, Section 1257(2), The Court of Appeals is the highest court of the State of Maryland and its affirming the order of the lower court affirming the orders of the tax court, citing Bornstein v. State Tax Commission, 227 Md. 331, 176 A. 2d 859, that the relative weight to be accorded to any relevant factor in a particular case is for the assessing authorities and not for the courts, and there is no reason to compare prior assessments of the appellant's property with the current assessments, State Tax Comm. v. Brandt Cabinet Works, 202 Md. 533, 97 A. 2d 290, and the subsequent denial of the motion for reargument, thereby prohibiting the appearance of an attorney employed by the appellant to argue same, etc., all of which was in violation of Article I, Sect. 10, and Article IV, Sect. 2, of the Constitution of the United States and affected the appellant's property in violation of the Fourteenth Amendment to the Constitution of the United States.

When this court is asked to sustain or invalidate a state statute upon the ground that it provides special privileges to persons of a particular section of the state which is planned or projected for subdivision until accomplished or actually conveyed as Article 81, Sect. 19.— In Charles County; and in Calvert County, land which is planned or projected for subdivision use shall not be assessed as subdivided units until actually conveyed as such. The nature and extent of the obligations of an individual, etc., pretending to be performing his duty within said state, etc., by depriving the appellant of his property

rights without due process of law [1] nor deny any person within its jurisdiction the equal protection of the laws, etc., by wilfully subdividing the frontage of the acreage and the two right of ways, into lots, so as to increase the assessment about *100%*, equal to a comparative, the land improved by a modern theater, known as lot No. 18A, #6650 Belair Road,—see comparative, Lot 18A, for Case No. 66, without even allowing the customary 1/3 off for unimproved property, etc., all are Federal questions and finality cannot be accorded the views of a state court.

STATUTES INVOLVED

The Maryland Constitution, Declaration of Rights, Article 15, requires equality and uniformity of taxation as to all property in the taxing district, to prevent exclusion or exemption and no discrimination between different species of property and to be taxed at one rate to the fullest extent possible under the Constitution of the United States; and the Annotated Code of Maryland, Article 81, Revenue and Taxes. Sect. 8(1) Real Property—pursuant thereto and in conformity therewith the above, etc., Sect. 9. Exemptions. (46) Real property of manufacturer • • • ten years. Validity—in furtherance of the public good. Sect. 11. Taxation of corporations entitled to exemptions

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[1] The final order of the Court of Appeals herein is a final judgment or decree under 28 U.S.C. Sect. 1257(2) (*Department of Banking v. Pink*, 317 U.S. 264; *Cole v. Violette*, 319 U.S. 581) which this Court has jurisdiction to review on appeal because it sustains a state statute against a claim of its invalidity under the Constitution of the United States (*Scripto, Inc. v. Carson*, 362 U.S. 207; *Safeway Stores, Inc. v. Oklahoma Retail Grocers Ass'n.*, 360 U.S. 334).

under contract. Sect. 14(b) Valuation—current value Sect. 19. Real estate; subdivisions. (a)—In Charles County, and in Calvert County land which is planned or projected for subdivision use shall not be assessed as subdivided units until *actually conveyed* as such. Sect. 31(a) In general—annual date of finality, Sect. 39. Valuation—shall have power to annually correct the valuations * * * and alter and correct * * * which may have been improperly valued * * * which may have *changed*. Sect. 221. Wilfulness—give any incorrect, untrue or misleading information. Sect. 222. Negligence—fail to perform any duty. Sect. 229. Procedure, (c) Conduct—Proceedings before the Court shall be *de novo*. (l) Appeal to the Baltimore City Court[2]—the Court shall file and include in the record of the case its findings of fact and conclusions of law * * * *shall hear* the case *de novo* * * * may affirm, reverse, remand or modify the order appealed from. (m) Appeal to Court of Appeals. Sect. 230. Exhaustion of remedies. Sect. 232(4) Supervision of assessments.[3] equalized. (8) review—shall be *thoroughly* reviewed at least once each year. (Theater on Lot No. 18A, etc.) (13) Function of Commission and Courts. Sect. 233. Supervisors of assessments—incompetency or other cause. Sect. 234. Powers and duties—shall have power and are charged with the duty, to *recommend*[4] assessments to * * * other authority as *required* by law, and shall be charged with the duty and shall use all due diligence * * * in obtaining fair and equitable assessments. Sect. 235—Supervisor in Baltimore City.—with *recommendations*. Sect. 244—Uniform plan for assessment—shall be followed strictly * * * and city assessors, for all subsequent reassessments and reviewal

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[2] Duty of the Baltimore City Court, shall *hear the case de novo*, may affirm, reverse, etc. Sect. 229.

[3] Duty of supervising assessments is imposed upon the *State Tax Commission* as a *body of experts*, Sect. 232(13).

[4] Duty of the Supervisors of Assessments is to *recommend* Sect. 234-235.

of assessments. Sect. 261. Refunds—paid in excess . . . with interest.

QUESTIONS PRESENTED

Whether the Tax Laws of Maryland, as construed and applied by the Court of Appeals herein, impairs the obligation imposed upon the former State Tax Commission, as a *body of experts*, with the duty of supervising assessments equally among the taxpayers, and or the duty of the Supervisor of assessments charged with the duty to *recommend* assessments to other authority, as required by law and the duty of the several appellate agencies and the courts aforementioned, in violation of the U.S. & Md. Constitutions and the aforesaid law, including Article I. Sect. 10—pertaining to duty and obligation of the State, and Article IV. Sect. 2—citizens, shall be entitled to the same privileges and immunities of citizens of the States; depriving a citizen of his property without due process of law and the equal protection of the law in not permitting or the taking of testimony or the recording of testimony, etc., in violation of the Fourteenth Amendment to the Constitution of the United States.

STATEMENT OF THE CASE

This case involves relief from the unjust and unwarranted increase of the real estate assessments on the various property bought in 1940 for $23,393. for 7 2/5 acres, 50'—2-story and basement frame structure, large pavilion and covered park, and farmhouse, located in the northwest part of Baltimore City, on the northwest side of the Belair Road and on the east side of Cedonia Avenue, as shown on the City of Baltimore, Bureau of Surveys Property Location Division Plat, Ward 27, Section 4, Block 5656.—Paper No. 49, Appellant's Ex. No. 1.—E. 28. The increase was affirmed by the lower courts regardless of the facts and the errors made by the appellee and the

courts in spite of the decisions of the former State Tax Commission, who in 1958 on the same matter and property under the same conditions, reversed their previous decision on the rehearing. See: Transcript of Rehearing on September 24, 1958, Paper No. 53, Ex. No. 4B, of the Appellant's Brief and Record Extract.—E. 38, filed herein.

THE QUESTIONS ARE SUBSTANTIAL

The appellate agencies and the courts relinquished their duties and their authority to the real property assessor, etc., who is charged with the duty to *recommend* assessments in conformity with a uniform plan, and who shall be guilty of a misdemeanor by negligently and wilfully failing to perform any duty imposed upon him by the law, and in doing so they also invalidated the power of the former State Tax Commission, a *body of experts*, and also violated the rules of procedure and conduct of proceedings by the court not hearing the case *de novo*, and the power to hear, try and determine cause and determine any matter, may permit additions to be made to any of the proceedings or pleadings, to *permit* the submission of issues of *fact* and to assess and classify anew, abate, modify, change or alter any assessment, etc., or final order, as the right to present issues of fact and evidence to sustain the facts and errors was arbitrarily overruled or denied by the court, etc., See: Order of Appeal from the Maryland Tax Court and Petition for Review and Hearing De Novo, and Exhibit A, of Appellant's Brief and Record Extract.—E. 1-3,—Docket Cases 63 to 66 Inclusive.—E. 4, The Motion for an Order to Abide by Prior Year Appeal Decisions.—E. 5, the Department of Assessments letter acceding to the request to *abide* the decision of the State Tax Commission in the prior year appeals before it on the same *subject matter*.—E. 6, Motion for Rehearing on Petition for Review and Hearing De Novo.—E. 8-9, Suggestion for Removal of Case.—E. 9,

Letter from Court.—E. 10; Final Order—*Oral Opinion.*—E. 11-18, Order of Appeal—to Court of Appeals.—E. 19, Lists of Property Assessments, wherein the surrounding and adjoining properties within the district were reduced or remained the same, whereas the appellant's property was increased in one case as high as 400% and subdivided. —E. 21, 23-24, the Paper No. 48, Appellee's Resp. Ex. 1, —Plat.—E. 27, and Paper No. 49, Appellant's Ex. No. 1, —Plat.—E. 28, the Deeds.—E. 33-37. And the *Paper No. 53*, Appellant's, Ex. No. 4B, Transcript of Rehearing.—E. 38-58.

1. The administrative agencies and the courts denied the appellant over his objections, the law and his constitutional rights, by not allowing him to testify and be heard as a witness.

2. The case of Easter v. Department of Assessments, Paper No. 53, Appellant's Exhibit No. 4B—Stenographic Transcript of 1958 Rehearing before the State Tax Commission.—E. 38, is pertinent to this case, as the assessor had no reasonable right to subdivide the acreage into lots, etc., that in view of the general layout of this property and the use to which it may be put, for such important purposes for civic or commercial projects, etc., if obtainable, and the value of the right of ways which are real and common knowledge and not merely theoretical or imaginary, it is grossly unfair and unreasonable to bifurcate it into lots and acreage.

3. The assessor had no right to subdivide the front acreage into lots, thereby increasing appellant's assessment 400% as it is the well recognized and established policy of the assessors to allow *one-third off* the assessed value arrived at a footage basis, in assessing unimproved lots. See: Appellee's Brief—Apx. 5, Q. "Would you explain what you do in regard to assessments on unimproved property as compared to improved property? A. In residential areas, we allow *one-third* off the assessment for

vacancy allowance." And in the transcript of the original record, Paper No. 47, page 39, line 12.

Yet the unimproved land adjoining the theater property is assessed on the same unit rate as on the theater lot.

4. In spite of Article 81, Sect. 14, to reassess property as of the date of finality each year, the assessor had no legal or constitutional right to disturb the former assessments established by the State Tax Commission, except in violation of the statutes involves, as there has been no change whatsoever in the area, except as to the various reductions of the assessments on surrounding and adjoining properties, etc.

5. The assessor erred in applying the $150 unit tax rate on the two 2-story brick row houses, one on an outside lot No. 12 13, size 160′ x 65′ irregular, improved with a 19.3′ x 30′, 2-apartment and store, with a 2-story brick front extension, which is the comparable adjoining to and built by appellant in 1924 for $10,500. for both houses, as a sample row house, intended than for a development. The appellant's inside lot No. 14, size 19.3′ x 65′-85′ irregular, improved with a 19.3′ x 30′, 1 family and store, with a 1-story frame and peak front extension; with the $100. unit tax rate on lot No. 18A, a 60′ x 200′ lot improved with a 60′ x 132′ brick *theater*, with rear extension, alleged to cost $165,000., yet the assessment was continuously *reduced* since 1953 to $30,600. Together with the *reduction* of the assessment on the lot and the improvement of the comparable, lot 12 13, and the *increase* of the assessments on the lot No. 14 and the improvement of appellant's property, case No. 63, all as stated in Proof of Evidence by the Facts and the Statement of the Facts; and as referred to in the Appellant's Brief and Record Extract filed in this statement.

The case presents a substantial question not only because the judgment below is contrary to the decisions of this Court, but also because the Federal government and

the State governments are more and more making commitments to private citizens, such as the 10 year tax exemption, in order to encourage them to undertake business activity deemed desirable from the viewpoint of the public or public good. In short, the problem here presented is also one of public importance and likely to occur in the future, provided the former prospective interested tenants could be approached and given assurance of not being taxed out of existance as is being done to the appellant by being required to defend all of the past and prior proceedings including the present, which has absorbed at least two years in litigation.

STATEMENT OF THE FACTS

The Questions of Law in any Case Arise Out of Facts

Question of fact in a case which the issue is whether a state statute, in its application to facts:—The Supreme Court, (a)—analyze the facts—but to perform its own proper function, in deciding the question of law arising upon the finding which the evidence permits—(b)—in dealing with mixed questions of law and fact, may review facts in order to correctly apply the law, as in a question of fact in a case which the issue is whether a * state statute, in its application to facts may review facts, in order to correctly apply the laws—(c)—is not *bound* by findings of State Court and may determine for itself the facts of a case upon which asserted federal right depends.

(a) *United Gas Public Service Co.* v. *State of Texas*, U.S. Tex. 1938, 58 S.Ct. 483, 303 U.S. 123, 82 L. Ed. 702. Craig v. Harney, Tex. 1947, 67.S.Ct. 1249, 331 U.S. 367, 91 L. Ed. 1546.

(b) *First Nat. Bank of Hartford* v. *City of Harford*, Wis. 1927, 47 S.Ct. 462, 273 U.S. 548, 71 L. Ed. 767.

(c) *Southern Pac. Co.* v. *State of Ariz. ex rel. Sullivan*, Ariz. 1945, 65 S.Ct. 1515, 325 U.S. 761, 89 L. Ed. 1915.

Brooklyn Sav. Bank v. O'neil, N.Y. 1945, 65 S.Ct. 895, 324 U.S. 697, 89 L. Ed. 1296.

The lower court denied the appellant his constitutional rights by sustaining the Final Order—Oral Opinion, Page 24½ of the record and the Final Order, E. 7 and 11-18, in which the court did not allow the appellant to put testimony on the stand, to produce evidence in the case, by ignoring appellant's question, "Do you want me to take oath? I am a witness as well." Page 24½, sheet 2, line 16, Appellant's Brief and Record Extract, Page 2, and—E. 12, line 13, etc. "The Court: * * * Mr. Easter, you do not have counsel? Mr. Easter: No, sir. The Court: You were formerly represented by Mr. Williams. Does he represent you now? Mr. Easter: No, sir. The Court: I will hear from you. Mr. Easter: Do you want me to take oath? I am a witness as well. The Court: I want to hear from you now what your contentions may be (NOTE: Thereupon, opening statements were made to the Court by the respective parties). The Court: "Is there any reason for taking testimony here? I think I understand the contentions on the record. Mr. Easter, do you have any testimony you care to take? Do you have any witnesses?" Mr. Easter: "No, sir. (in answer to having any witnesses) I am the only person who knows the property. I am more familiar through past experience and past results of this litigation which has gone on from year to year." (NOTE: Thereupon, arguments were made to the Court by the respective parties). etc. Therefore appellant was not allowed an opportunity to be heard, to take oath, to testify as his own witness, etc., as the reporter was instructed by the judge not to record anything except what the judge specifically ordered. As the judge did not provide for the reporting of any testimony in reference to the facts and errors, the final order—oral opinion merely stated, opening statements were made, and that arguments were made, etc., without transcript.

1. The assessments are contrary to law, unjust and unreasonable, because there were no improvements made or any change in valuations, except locally, within and adjoining appellant's property, Appellant's Exhibit, Paper No. 45A, List of Property Assessments, sheet 1 of 1, and Paper No. 45B, sheets 1 and 2, or before and since the Rehearing, September 24, 1958, of the hearing of June 12, 1958, before the State Tax Commission, Paper No. 53, Appellant's Ex. 4B.—E. 38-58.

2. Although under the tax laws, Article 81, Section 14, provides that property is to be assessed as of the date of finality, the appellant states, with any property assessed locally, the yearly assessments must also be Uniform, Equal and Alike as to land and improvements, and that the unit of tax value must not be over or under valuation within the taxing district as required by the Constitution of Maryland and the United States. Whereas prior to and including the 1958 Rehearing, the assessor attempted to subdivide appellant's acreage into lots as he now has done for the year 1961 but was reversed then, prior to and including 1960, the assessor did not disturb the assessments on the adjoining properties then, as he is now doing for 1961, by either rearranging and manipulating the assessments or reducing them.

3. The appellee, in reassessing the property of the appellant and the properties locally, immediately adjoining the appellant's property, for the year 1961, and prior years, under the guise of uniformity, ignored and disregarded the fact that the properties within the taxing district had not been reassessed or the valuations changed in prior years as there has been no improvements made by the appellant, or the adjoining property owners or the city to warrant any increase, See: comparative list, Paper No. 45A and 45B, appellant's exhibit, yet the assessor raised appellant's property assessments from 20% to as high as a 400% increase, and erroneously reduced or rearranged by reducing the value of the improvements and

applying all or some of the reductions on the land, resulting in total reductions along Cedonia Avenue of from $40 to $260, especially and deliberately ignoring the low assessment on the property at 6650 Belair Road, a $165,000. *theater*, on lot No. 18A, as same was reduced in 1948 from $59,500. to $36,240. and reduced again in 1953 to $34,500. and in 1955 to $30,000. See: appellant's brief, page 9, and appellee's brief,[5] Apx. 20, Movie Theater. The same owner's property at 6652 Belair Road, lot No. 18B, at $35,000, diner, with an added dining room, assessed for $6,700. was further reduced to $6,000. for 1961.

> "Assessment is illegal, specifying the grounds of alleged illegality, or is erroneous by reason of over valuation, or is unequal in that the assessment has been made by a higher proportion of valuation than other real or personal property on the same tax roll by the same officers, and that the petitioner is, or will be, injured by such illegality, unequal or erroneous assessment." City of Baltimore v. Austin, 95 Md. 90; 51 A. 824—Tax 493 (4, 9).

The issue before the courts below as to a fair assessment on the aforementioned properties, included a Motion for an Order to Abide by Prior Year Appeal Decisions, and a copy of a letter from the Department of Assessments acceding to a request to abide by the decision of the State Tax Commission in the prior year appeals before it on the same subject matter. Page 13-15, of the original record, E. 5-6, of Appellant's Brief and Record Extract. The appeal was held and the commission sustained the assessor, and on the request for a rehearing the commission reversed their previous decision due to the assessor's unjust actions in attempting to subdivide appellant's acreage into lots, See: Appellee's Resp, Ex. 1,—E. 27, Bureau of Surveys Property Location Division Plat, showing ap-

[5] Easter v. Dundalk Holding Co., 199 Md. 324, Adjacent Land —Writ of Certiorari, Case No. 131, O.T. 1958, Sup. Ct.

pellant's front and rear land as 15 16, 5.101 acres, which is exactly as the plat submitted by the assessor as Exhibit F,—E. 32, and used in the Rehearing case of September 24, 1958, Paper No. 53. Ex. No. 4B.—E. 38-58.

THEREFORE, the consolidated cases, Nos. 61-66, are enumerated below and described with their comparables with the lists and the exhibits, etc., as there has been no changes since 1958, etc., in the neighborhood, properties, witnesses and the reasons, except as to the reductions of assessments on some of the comparables adjoining the appellant's property as referenced in the Appellant's Brief and Record Extract, Page 6-15, and as follows:

PROOF OF EVIDENCE BY THE FACTS

Although the appellant was not permitted to testify and to produce evidence in the lower proceedings, the work sheets prepared by the witness for the appellee, were given to the appellant just before the hearing, (Tr. 40-41), Appellee's Appendix Apx. 5, which were objected to and overruled, See: Transcript of Proceeding, Paper No. 47, (T. 36-L. 5), of the original file in care of the clerk of the Supreme Court, the 11 or more work sheets were submitted as alleged exhibits by the appellee and not in accord with rule 6, requiring at least (5) days before the date set for hearing, for the purpose of showing equality or inequality of alleged comparables or for other purposes. The assessor in answering most of the questions or irregularities and pretentions, etc., and to the method used in the making of the excessive and discriminating assessments,—such as *decreasing* the assessment on the improvements on the lots adjoining the appellant's property on Cedonia Avenue to adjust the comparables to compensate for the increase on the land so as to make it appear equal with the *increased* assessment on appellant's lots Nos. 5 and 7/8, case No. 61-62; the assessor merely stated "for uniformity and equalization purposes", or by

erroneous explanations in reference to the facts, etc., See: List of Property Assessments, Paper No. 45B, bottom of page Sheet 2, (E s Cedonia Ave.)—E. 24, note the change in the assessments on the improvements, etc.,—Appellant's Brief, page 6-7; and Appellee's Resp. Ex. Nos. 4-5, Apx. 21-23.

Case No. 61,—6427 Cedonia Avenue; Lot No. 5,—50′ x 170′, *increased* from $15 to $20 unit tax rate, unimproved, 1/3 off for vacancy, reassessed from $500. to $700. See: the above and Appellant's Brief page 6, and Appellee's Resp. Ex. No. 4, Apx. 21-22, and Transcript of Proceeding Paper No. 47, of the original record (T. 17-21).

Case No. 62,—6431-33 Cedonia Avenue; Lot No. 7/8,—100′ x 170′, increased from $15 to $20 unit tax rate, unimproved, 1/3 off for vacancy, reassessed from $1000. to $1400., lot is used by the neighborhood as access to and for a playground on part of the 5.101 Acres. See: the above and Appellant's Brief page 6-7, and Appellee's Appendix, Resp. Ex. No. 5, Apx. 22-23. Transcript Paper No. 47 (T. 17-21).

Case No. 63,—6420 Belair Road;—inside Lot No. 14,—19.3′ x 64.3′ x 84.9′, irreg., 1400 sq. ft., $150 unit tax rate —$114 front foot, reassessed and *increased* from $1,100. to $2,200., and improved with a 19.3′ x 30′—2-story and basement brick row house with a 1-story and peak frame front extension, occupied by 1 family and tavern, cost $4900. in 1924, reassessed and *increased* for 1961, from $5,600. to $6,800. a total increase of $2,300. or 30%; Appellant's Brief page 7, Transcript Paper No. 47, (T. 20-25), Photo. Paper No. 51, Applt. Ex. 3, and Appellee's Appendix Resp. Ex. No. 6, Apx. 23-25: for the prior years as follows:

Proposed assessments and the reversals on subject lot No. 14, for prior year appeals for—One Family and Tavern—Row House, (T. 58-59):

Assessment:—*Increased* again for 1961, etc.—Apx. 23.

Year	Lot	Imp.	Total	
1956	$1,600	$7,500	$9,100	Dept. of Assessments.
1957	1,100	5,600	6,700	State Tax Commission.
*1958	2,200	7,500	9,700	Dept. of Assessments.
*1958	1,100	5,600	6,700	State Tax Commission.
1959	1,100	5,600	6,700	
1960	1,100	5,600	6,700	
1961	2,200	7,500	9,700	Dept. of Assessments.
1961	2,200	6,800	9,000	Board M.Z. & A.

Compared with the adjoining 6418 Belair Road outside improved lot No. 12/13,—Two-Apartment and Store Row House—(T. 60); Photo. Paper No. 51, App'lt. Ex. 3:

Assessment:—*Reduced* for 1961, etc.—Apx. 25.

Year	Lot	Imp.	Total	
1960	$4,240	$7,500	$11,740	
1961	3,240	6,500	9,840	Dept. of Assessments.

See: Appellee's Paper No. 8, Resp. Ex. No. 3,—Reproduction Cost—per cu. ft. 36¢. Comparable 6608 Belair Road, Lot No. 18A. Movie—per cu. ft. 14¢. Photo. Paper No. 51, App'lt. Ex. 3D-3E.

Compared with comparable properties especially the adjoining outside Lot No. 12/13—61′ x 4.3′ irreg., 2100 sq. ft., $150 unit tax rate—2/3 of 41.3′ excess front over rear equals $3,240. which was *reduced* from $4,240. together with the *reduction* on the assessment on the 19.3′ x 30′—2-story and basement brick row house with a 2-story brick 14′ front extension occupied and consisting of 2 apartments and a store, the same assessor *reduced* the improvements from $7,500. to $6,500., a total of $9,840. compared with the appellant's small inside lot and frame front assessed for $9,000. The $150 unit tax rate used for lot Nos. 12/13 herein and 14 above, is completely out of line due to their average depth of 42′ compared with the other properties where the assessor used a $100 unit tax rate with depth of lots from 60′ x 145′ front, to 145′ and

especially the 200′ theater lot. And using rental income or alleged profit percentage, etc., and ignoring the uses and rentals of all the other comparables adjacent to and in front of appellant's acreage, etc. See: Appellant's Brief, page 3 para. 5, page 7-8, List of Property Assessments Paper No. 45A.—E. 21, Plats Paper Nos. 48-49.—E. 27-28, Transcript of Proceeding. Paper No. 47, (T. 21-25) and (T. 47-64), and Appellee's Apx. 23-25.

Case No. 64,—6422-26 Belair Road; inside Lot No. 14A, —56′ x 84.9′ x 143′ irreg., 6300 sq. ft., $100 unit tax rate, unimproved—$92 front foot, reassessed from $2,840. to $5,180., an increase of over $175% without any allowance for the customary *1/3 off* for vacant land, See: Appellant's Brief page 8-9, List of Property Assessments Paper No. 45A.—E. 21, Paper No. 45B Sheets 1-2.—E. 23-24, Plats Paper Nos. 48-49.—E. 27-28, Transcript of Rehearing Paper No. 53,—E. 40, 52-53, and the Transcript of Proceeding Paper No. 47, (T. 21-25); Photo, Paper No. 51, App'lt. Ex. 3C. and Appellee's Appendix, Resp. Ex. No. 7, Apx. 26-27.

Proposed assessments on subject lot No. 14A, inside vacant land,—prior year appeals:

Year	Lot	
to - 1960	$2,840	
1961	5,180	Dept. of Assessments.
1961	5,180	Board M.Z. & A.

Although the assessor continues to state he increases the assessment for uniformity and equalization purposes such as on the above lot, but when he refers to a *large* outside used car lot No. 14B, adjoining appellant's lot No. 14A, and the 50′ Right of Way provided in their deed, renting for $150 a month and was recently sold, the assessor said in the Appendix to Appellee' Brief, Apx. 15, "14B, that is a *little* irregular lot, too. Assessed on the $100 unit gives you a rate of $122. * * * As compared to

$114 for Lot 14A, is that correct? * * * Now, 14A has a rate of $92." 14B "It is a used car lot. This is nothing but a little office to keep out of the sun." (T. 67-68). The said lot 14B, is 74.4' x 143' irreg., 15,377 sq. ft., using $122 front foot, the assessment on the lot is $9,080. with $500 on the office; and the assessment on another comparable, improved lot No. 17,—triangular, 145' front x 60' depth, 4800 sq. ft. area, still retains an uninterrupted assessment of $6,480. for lot and $6,400. for the frame 2-apartment and tavern improvement; and the 50' x 183.7' improved lot No. 17A, with an area of 9000 sq. ft., is still assessed for $5,200., and $4,300. for the frame dwelling of 2-apartments, etc., which is also on a 40' Right of Way, Easter Ave.; Deeds—Paper No. 52, Ex. 4A,—E. 33-35,—E. 35-37.

Appellant emphasies the fact that the following exhibit, Appellee's Paper No. 8, Respondent's Exhibit *No. 3*,—E. 4, IN RE: DOCKET CASES 63 to 66 Inclusive, was handed to appellant together with about 11 other alleged exhibits, etc., during the proceeding, but is *not now* included in the Index to Appendix, page iii, of the Brief and Appendix of Appellee, but was mentioned and introduced as relating to some Boeckh's Manual figures, as Respondent's Exhibit No. 3, Apx. 3; and the Transcript of Proceeding Paper No. 47, (T. 6); and in the original record filed September 26, 1962, in the clerk's office of the Supreme Court as Papers No. 8, 28, 35, 43, designated as Respondent's Exhibit No. 3.

The exhibit was amended to clarify the comparative costs per cubic foot submitted by the assessor, such as *37¢* per cu. ft. for the adjoining comparative, 6418 Belair Road, lot No. 12 13, and *36¢* per cu. ft. for appellant's property at 6420 Belair Road, case No. 63, lot No. 14, and *36¢* per cu. ft. for appellant's property at 6608 Belair Road, case No. 65, lot No. 18; compared with *14¢* per cu. ft. for the 219,000 cu. ft. theater at 6650 Belair Road, lot

No. 18A, not only is the wall of the theater still on appellant's land, but the assessment has been either *reduced* or *remained* the same since *1947*.

Appellee's Paper No. 8, Respondent's Exhibit No. 3, Appellant's Exhibit E. 4, IN RE: DOCKET CASES 63 to 66 Inclusive. — BOECKH'S MANUAL — Reproduction Cost—etc., the depreciation tabulations are not pertinent except as to the result of cost per cubic foot and are not in accordance with the manual as stated by the author—incorrect page references, etc., especially that a 2-story one family 19.4′ row house could not be classified as an apartment house, etc.—

Adjoining comparable:

6418 Belair Road, outside lot No. 12 13,—2-apartment and store, with 2-story brick front extension—20,000 cu. ft. @ *33¢* equals $6,500.

Case No. 63:

6420 Belair Road, inside lot No. 14,—1-family and store, with 1½ frame front extension—20,000 cu. ft. @ *36¢* equals $6,800.

Comparable:

6506-10 Belair Road, irreg. 145′ front lot No. 17,—2-apartment and store—25,600 cu. ft. @ *25¢* equals $6,400.

Case No. 65:

6608 Belair Road, lot No. 18,—boat sales—3516 sq. ft. @ $5.31, or 51,000 cu. ft. @ *39¢* equals $19,300., or 51,000 cu. ft. @ *25¢* equals $13,300.

Comparable:

6650 Belair Road, lot No. 18A,—60′ x 122′ theater—219,000 cu. ft. @ *14¢* equals $30,600. compared with $165,000. construction cost in 1947.

Case No. 65,—6608 Belair Road; Lot No. 18,—185.7' x 193'—.829 Acres, $100 unit tax rate, about 10% improved, originally used for parking, $105 front foot, re-assessed and *increased* from $9,800. to $19,440. The steel and frame improvement was *reduced* from $19,300. to $13,300. Appellee's Paper No. 42. Resp. Ex. 8, Apx. 27-30, shows the various increases made by the assessor, and the reductions of the assessments as the result of the prior year appeals on the land and the improvements. See:—Appellant's Brief page 9-10, Lists of Property Assessments Paper No. 45A.—E. 21; Plats Paper Nos. 48-49,—E. 27-28, Transcript of Rehearing Paper No. 53,—E. 53-55, and Transcript of Proceeding Paper No. 47, (T. 25-28, 71-77), Photo. Paper No. 51, App'lt. Ex. 3B, and Appellee's Resp. Ex. No. 8, Apx. 27-30; for the prior years as follows:

Assessments:

Year	Lot	Imp.	Total	
1957	$16,800	$22,200	$39,000	Dept. of Assessments.
1957	9,800	19,300	29,100	State Tax Commission.
*1958	19,440	22,500	41,940	Dept. of Assessments.
*1958	9,800	19,300	29,100	*State Tax Commission.
1959	9,800	19,300	29,100	
1960	9,800	19,300	29,100	
1961	19,440	13,300	32,740	Dept. of Assessments.

The above lot is 10% improved:—"is not improved to a point that would justify a higher unit rate." (T. 75 line 20) whereas improvements on lot No. 18A, a comparative, —219,000 cu. ft. theater, occupies about 75% of the lot, Photo. Paper No. 51, App'lt. Ex. 3B, 3D-3E.

Case No. 66,—6642 Belair Road;—Lot 15/16—more actually described as being 5.101 Acres, with open and actual frontage on the Belair Road of only 209' excluding one 50' Right of Way and one 40' Right of Way, all within a frontage of about 700'. The Belair Road frontage was assessed $100 unit tax rate with no allowance for the customary *1/3 off* for vacant land, the assessor *illegally subdivided* appellant's front acreage into lots, including

the rear of the 145' front lot No. 17, a comparative, with no access to any street, etc., to a depth of 200 feet from the Belair Road, aggregation 1.886 acres of pretended frontage including the 2 Right of Ways, produces an assessment of $36,260. with the balance assessed at $2,000. per acre, or $6,400., producing a total land assessment of $42,600. an *increase* of over *fifty* from $10,200. to $42,600. although nothing had happened in the neighborhood to warrant any increase, all of which violated Article 81, Section 19—Real Estate, and the constitutions of the United States and the State of Maryland. See: Appellant's Brief page 11-13, and the Record Extract, List of Property Assessments Paper Nos. 45A-45B.—E. 21, 23-24, Plats Paper Nos. 48-49,—E. 27-28, Transcript of Rehearing Paper No. 53, E. 40, 42-49, and Transcript of Proceeding Paper No. 47, (T. 77-99) and Appellee's Ex. 2, Apx. 18-21, as follows:

Proposed assessments and the reversals on subject lot 15/16,—5.101 Acres for prior years: Apx. 19.

Year	Lot	Imp.	Total	
1954	$15,300	$2,000	$17,300	Dept. of Assessments.
1956	10,200	1,700	11,900	State Tax Commission.
1957	25,500	2,300	27,800	Proposed by Assessor—
1957	10,200	1,700	11,900	State Tax Commission.
1958	73,500	2,000	75,500	Proposed by Assessor—
1958	49,000	2,000	51,000	Review Chief Assessor.
*1958	10,200	1,700	11,900	*State Tax Commission.
1959	10,200	1,700	11,900	
1960	10,200	1,700	11,900	
1961	42,600	1,700	44,300	Review Prop. by Assessor.
1961	42,600	1,700	44,300	*Approved B. M. Z. A.

The administrative agencies and the lower court denied the appellant the right to testify and thereby did not report any testimony, the judge of the B.M.Z.&A. stated while appellant was trying to testify that he didn't "Want to hear anything about the *theater*, get a real estate agent and he will sell the property for you" (no transcript),

And the judge of the city court, shouted for the appellant to "Stand up, Sit down," and ignored the appellant's request "Do you want me to take oath? I am a witness as well."; and later remarked that "We will make him do something with the property," He will have to do something about the lot," See: Appellant's Brief and Record Extract page 2, and 11 to 13, especially to paragraph 6 of page 13 reference to the *theater* located at 6650 Belair Road adjoining to and encroaching on appellant's property, was assessed by the same tax assessor and on the same tax roll and as shown, See: Appellee's Paper No. 8, Resp. Ex. No. 3,—Reproduction Costs, wherein the assessor figured the assessment on the 60′ x 132′ plus rear, theater as 14 cents per cubic foot, or $30,600. about 200,000 cu. ft. 17″ brick wall building, and the land lot No. 18A, 60′ x 200′ occupied by about 75% by said theater, and Appellee's Paper No. 7, Resp. Ex. No. 2, Apx. 20, wherein the appellee states the assessment for the land and improvements for lot 18A.—$100 unit tax rate—size 60′ x 200′—rate $105—or $6,280. (Reviewed for 1958 also 1961), Apx. 29; assessed for no more or less than for the vacant land owned by and adjoining appellant's acreage, See: Photo, Paper No. 51, App'lt. Ex. 3D-3E. The following comparative theater property adjacent to appellant's acreage has been reduced since 1947:—

Lot 18A Year	Lot	Assessments Impts.	Total	Movie Theater
1953	$6,240	$34,500	$40,740	
1955	6,240	34,500	40,700	Proposed by Assessor.
1955	6,240	30,000	36,240	*Review Chief Assessor.
1958	9,420	30,000	39,420	Proposed by Assessor.
1958	6,280	30,000	36,280	*Review Chief Assessor.
1961	6,280	30,000	36,280	

See: Appellant's Brief and Record Extract—Transcript of Rehearing on September 24, 1958, in reference the subject appeals, etc.—Paper No. 53, Ex. No. 4B,—E. 38, and the Final Order—Oral Opinion—E. 11, in refer-

ence to said transcript and the Motion for an Order to Abide by Prior Appeal Decisions, filed before the hearing,—E. 5; The Court stated—E. 13, "If I understand your point correctly I think the subject-matter of your motion for order, to abide by prior year appeal decisions which you filed this morning, is either fully covered by the appeals designated Nos. 61 through 66, which are being tried today and, therefore, would be a *duplication* of the *issues in these* other appeals * * *.

In face of all of the decisions in the instant proceeding, the assessor nor the court did anything to disturb the unrealistic assessment on the lot No. 18A, especially the theater, all of which have been reduced since construction in 1947, of $165,000., etc., together with the arbitrary and capricious arrangement and reduction of the other properties aforementioned. Easter v. Dundalk Holding Co., Supreme Court Writ of Certiorari, No. 131, O.T. 1958.—Property, for Dinner Parking."

In the above case the property was not only used as a comparative for assessing appellant's adjacent vacant land etc., it is also especially pertinent to this case, not only because the assessment on the lot was allowed to remain the same in prior years and the improvement was reduced since construction, it was also a determent to the prospective development or in one instance the sale of part of the adjoining lot for a shoe store due to the trespass and encroachment of the wall of said theater which hindered the leasing of the whole tract to the then interested developers, etc., and at present of any future development due to the complications of the existing encroachment, etc.

And the variations of the inequitable assessments made by the assessor on the appellant's acreage from 150%—250%—730%—480% to the present 400%, all of which were time consuming and expensive even though the appellant was successful in all of the prior proceedings

especially the rehearing before the State Tax Commission in 1958.

The appellee's counsel supported the assessor blindly as in regard the past, and deliberately in the present, by ignoring the erroneous and evasive statements including the alleged profits stated without certifying that the tenant paid their rent or if there was negligence in allowing the assessment of the adjoining properties to remain intact and or the alleged innocent encroachment to remain by the courts, the denial of an attorneys request for reargument and the shouting by appellee's counsel, after appellant took oath, that appellant was not qualified to testify, although this statement is transcribed in Paper No. 47, of the original record (T. 23) and not as reported, all of which makes the appellant an innocent victim.

CONCLUSION

The present and annual illegal and continuous action of the assessor and the arbitrary and capricious reassessment of the subject properties, has frightened away several tenants as well as the former interested prospective tenants, and deters the future and probable development and the necessary considerations required, as ideas, suggestions, investigations, plans and promotion of, pertaining to any modern development of the entire tract, instead of a few separate front lot sites. And ignoring the application of the exemptment law to allow 10 year tax exemptments to business ventures and other special privileges offered and allowed, etc., within the state, and the State law reference to land which is planned or projected for subdivision, should not be assessed as subdivided units until actually conveyed as such, and without being persecuted and charged with erroneous statements, etc., which have continuously required appellant's time at least two years in this proceeding instead of

devoting the efforts towards doing something with the property, that would employe hundreds of citizens of the area, etc., and for the benefit of the citizens and or as justified for the public good and Mutual Welfare.

The appellant was denied the right to testify and was not allowed to be heard as a witness, the proof is the lack of any record wherein any testimony to present evidence as to the facts, errors, etc., ever existed, and was ignored by the Board of Municipal Zoning and Appeals, of the inactuate transcript of the hurried hearing (T. 65, line 18, 70, line 14, 76, line 16, 91, line 2) of the tax court, and the notes in the final order—oral opinion of the city court wherein the court evaded its duty to permit and acquire evidence, to the contrary or of any error, etc., which notes merely referred to opening statements were made, or arguments were made. If the assessor, whose duty is only to *recommend*, is permitted to continue to reassess each year in spite of the facts, as in this case, than every Citizen who owns property would be in jeopardy and insecure.

THEREFORE, it is respectfully submitted that plenary considerations of the constitutional issues involved should be granted by this Court. And that the taxes paid under protest, in excess of the amount properly chargeable, shall be refunded with interest, from date of payment, 1961, with costs, etc.

Respectfully submitted,

ANDREW J. EASTER,
2801 Adams Mill Road, N.W.,
Apt. 108, Washington 9, D. C.
(Adams 2-3874)

Appellant, In Proper Person

Background:

Trained in the Fine Arts—to observe and to recognize the Fact. The original of the reproduction above is one of the appellant's best works.

AFFIDAVIT OF SERVICE

(Jurat dated November 9, 1962)

Submitted Herewith:—

10 copies—Appellant's Brief and Record Extract
1 copy—Brief and Appendix of Appellee

Requested from Appellee:—

9 copies—Brief and Appendix of Appellee

APPENDIX

Exhibit A

(Record Index No. 58-62. Certification No. 2)

ORDER OF THE COURT OF APPEALS OF MARYLAND

No. 258, September Term, 1961

PER CURIAM:

When the Department of Assessments (appellee-assessor) assessed the properties of Andrew J. Easter (appellant-taxpayer) on Belair Road and Cedonia Avenue in Baltimore City for the year 1961, the taxpayer, claiming that the assessments were erroneous or illegal, resorted to the several appellate procedures available to aggrieved taxpayers.

The appeal came to this Court from the Baltimore City Court under the provisions of Code (1957), Art. 81, § 259. The case went to the lower court as six appeals (Nos. 61 through 66) in one transcript from the Maryland Tax Court after that body affirmed the finding of the Board of Municipal and Zoning Appeals to the effect that the assessments made by the assessors were not unreasonable.

The principal contentions of the appellant in the lower court, as well as in the tax court, were that the assessments were excessive and failed to take into account comparable assessments of other property in the neighborhood. Inasmuch as no additional testimony was offered in the lower court by either party, the court, having afforded the contending parties ample opportunity to be heard, decided the case on the record of the proceedings made in the tax court. In so doing, the lower court considered each appeal separately and made a finding in each case. The appeal to this Court challenges the cor-

rectness of the findings of fact and conclusions of law of the Baltimore City Court.

With respect to 6427 Cedonia Avenue (Appeal No. 61) and 6431-33 Cedonia Avenue (Appeal No. 62), both of which are unimproved lots assessed at $700 and $1400, respectively, and as to 6420 Belair Road (Appeal No. 63), which is improved by a tavern and a dwelling assessed at $9000, the lower court found that these assessments were reasonable in that they were in line with the assessed value of other property in the vicinity. As there was no showing of error in these findings, we must affirm. Maryland Rule 886 a.

The taxpayer protested the assessment of 6422-26 Belair Road (Appeal No. 64), an unimproved parcel of land, assessed on a front foot basis at $5180, because he believed that the property, from which he derived no income, should not have been assessed as high as an adjacent income-producing used car lot. But the court, in finding that vacancy in and of itself did not affect the valuation for tax purposes, further found that the income-producing possibility was the controlling factor. Code (1961 Cum. Supp.), Art. 81, § 14(b)(1), requires that property shall be assessed at "full cash value," and, since the lower court found no reason to require a reduction of the assessment, we cannot, in the absence of an affirmative showing of error, disturb its finding. Rule 886 a. Cf. *Bornstein* v. *State Tax Commission*, 227 Md. 331, where it was pointed out that the relative weight to be accorded to any relevant factor in a particular case is for the assessing authorities and not for the courts.

As to 6608 Belair Road (Appeal No. 65), improved by a building constructed as and for a restaurant but now used as a boat shop, the taxpayer did not contest the assessment of the building at $13,300 (formerly assessed at $19,300), but claims that the value of the land was increased to $19,440 to offset the decrease in the value

of the improvements and that such action was arbitrary and unfair. The lower court, however, though agreeing that an assessment based on that premise would have been unlawful, nevertheless found that the appellant had not been discriminated against for the reason that the tax survey plat indicated the assessment was comparable to others in that block of Belair Road. It appears the court was not in error in so finding.

Lastly, with respect to a large irregular parcel of land designated as 6642 Belair Road, but embracing several other parcels (Appeal No. 66), the assessment of the buildings at $1700 was not seriously contested. It is therefore the assessment of the land at $42,600 that is in dispute. And it is through this parcel that the taxpayer claims a "paper" street (referred to by him as Easter Avenue) is supposed to run. But the court, in the absence of sufficient evidence to show that the city had accepted any part of the parcel as and for a street, was not in error in finding that the whole parcel was properly assessed to the appellant. The further contention that the assessor should have assessed the whole parcel on an acreage basis instead of valuing the front of it (and certain back portions) on a front foot basis was likewise without substance inasmuch as the court found that the assessment of the area fronting on Belair Road on a different (and a higher) basis from the remainder of the area was reasonable under the circumstances, and, since there was no showing to the contrary, we must affirm the finding.

Finally, the appellant contends that the assessor has no right to revalue the land each year, but he is in error, for the law is to the contrary. See Code (1961 Cum. Supp.), Art. 81, § 232(8). And, since each annual assessment of property for tax purposes is distinct and presents its own problem, *State Tax Comm.* v. *Brandt Cabinet Works*, 202 Md. 533, there is no reason to compare prior

assessments of the appellant's property with the current assessments.

The order of the lower court affirming the orders of the tax court will be affirmed.

ORDER AFFIRMED: APPELLANT TO PAY COSTS.

Filed: May 8, 1962

Exhibit B

(Record Index Nos. 63-64, No. 3)

IN THE COURT OF APPEALS OF MARYLAND

No. 258

September Term, 1961

ANDREW J. EASTER,
Appellant

vs.

DEPARTMENT OF ASSESSMENTS OF BALTIMORE CITY,
Appellee

MOTION OF APPELLANT FOR REARGUMENT

Comes now, Andrew J. Easter, the Plaintiff, Appellant, and moves the Court for a reargument of this case, and for grounds, reasons, and causes therefore, respectfully says:

1. That point 3 of the appeal alleges that "The assessor had no reasonable right to subdiyide the acreage into lots, * * *"; that in view of the general layout of this property and the use to which it may be put, it is grossly unfair and unreasonable to bifurcate it into lots and acreage. The lots being on a public highway, and if used as such, would cut off the acreage therefrom and render said acreage useless for such important purposes for civic or commercial projects, etc., if obtainable, the most valuable use for acreage (see Appellant's Brief, pp. E., 38, 39-48); that the value of open access to such a street is shown by that reference, which is real and not merely theoretical or imaginary, as is shown by said reference and common knowledge, and therefore, such deduction by the assessor is clearly and properly erroneous and unfair to the Appellant.

2. That in respect to the unimproved lots, it is the well recognized and established policy of the assessors to allow *one-third off* the assessed value arrived at on a footage basis, in assessing unimproved lots (see Appellee's Brief, Apx. 4-5). That such was not allowed in Appeal No. 66, as will appear by reference to the lower Court's opinion (see Appellant's Brief at E. 17).

3. And for such other and further relief as the exigencies of his case may require.

WHEREFORE the Appellant moves for a reargument of this case, and that the original papers be held in this Court until further action be taken either by the Court on this Motion, or by the Appellant.

/s/ Andrew J. Easter
ANDREW J. EASTER
Appellant

/s/ Geo. Washington Williams
GEO. WASHINGTON WILLIAMS
Attorney for Appellant,
231 St. Paul Place,
Baltimore 2, Maryland.

Office Supreme Court, U.S.
FILED
JAN 31 1963
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1962

No. 584

ANDREW J. EASTER,
Petitioner,

v.

DEPARTMENT OF ASSESSMENTS OF BALTIMORE CITY,
Respondent.

PETITION FOR REHEARING ON ORDER DENYING APPEAL AND OR WRIT OF CERTIORARI

Andrew J. Easter, appellant on Appeal, petitioner herein, file this Petition for Rehearing on Appeal from the Court of Appeals of the State of Maryland, by Jurisdictional Statement, pertaining to a State Statute, and or for a Writ of Certiorari; urgently requests the Court to review the proceedings here, decided on January 7, 1963, and cite the following compelling facts which may have been overlooked:

1. First Reason for Granting Rehearing

State Statute—Tax Laws of Maryland—Article 81, Section 19—In Charles County, and in Calvert County, land which is planned or projected for subdivision use *shall not* be assessed as subdivided units until actually conveyed as such.

When this court is asked, to sustain or invalidate a state statute upon the ground that it provides special privileges to persons of a particular section of a state, which is planned or projected for subdivision until accomplished or actually conveyed as aforementioned. The nature and extent of the obligations of the tax assessor, pretending to be performing his duty within the state, by depriving the petitioner of his property rights, etc., by wilfully subdividing the frontage of petitioner's agreage and the right of ways, into lots; assessed with the same tax rate as the adjacent land, improved with a 200,000 cu. ft.* theater (Easter v. Dundalk, Case No. 131, O.T.1958, encroachment), without deducting the customary vacancy allowance of at least 1/3 off for unimproved property.

2. Second Reason for Granting Rehearing

Affirmative showing of error, had been filed by Petition for Reduction of Assessment on Real Estate before the Department of Assessments of Baltimore City under penalties of perjury, by Appeal before the Board of Municipal and Zoning Appeals of said city by affidavit, by Petition of Appeal before the Maryland Tax Court under the penalties of perjury, a. Appeal before the Baltimore City Court, and eventually to the Court of Appeals of Maryland, including an attorney's Motion for Reargument, in all of which the petitioner had presented proof of evidence by the facts, definitely and especially in Appellant's Brief and Record Extract before the Court of Appeals, and in the Jurisdictional Statement, both of which are filed in herein case.

In the foregoing the petitioner continuously requested his constitutional rights be granted, permitting him to testify, to produce evidence on the facts, which facts are

* Theater assessed @ 14c per cu. ft., which is 1/3 the assessment on the improvements of other property within the area.

contrary to the arbitrary and consistant attitude which respondent and the appellates has displayed, creating a pattern of affirmations, resulting from disregarding, denying, misrepresenting and/or not reporting, etc., petitioner's testimony as follows:

Appeal No.

1. Dept. Assess'ts.—*Duty to recommend—no hearing, no abatement—*

2. Bd. M. & Z.A.—Judge shouted he didn't *"Want to hear anything about the theater, get a real estate agent and he will sell the property for you"—denied the right to testify, no transcript—*

3. Md. Tax Ct.—former State Tax Comm., *a body of experts—not qualified to testify—inactuate transcript—*

4. Balto. City Ct.—Judge shouted *"Stand up—Sit down,"* and later remarked *"We will make him do something with the property," "He will have to do something with the lot"*—denied trial *de novo—not permitted to take oath, or to testify to produce evidence—Oral Opinion—No Transcript—*

5. Ct. Appeals Md.—Impairs the obligation of the former State Tax Comm.—three judges asked the assistant attorney General why petitioner's assessment was raised *too*—, he pointed and shouted each time *"It's in the brief"—denied an attorney's request for Reargument—*

6. Supreme Ct.—*Is not bound by finding of state court, and may determine for itself the facts of a case upon which asserted federal right depends—*

This case is a proceeding brought by the petitioner, pursuant to the Constitution of Maryland, Declaration of Rights, Article 15.—Uniformity of Taxation, and the Annotated Code of Maryland, Article 81.—Revenue and Taxes, to compel the Department of Assessments, the respondent, to perform the duty to provide a fair and equitable assessment on petitioner's property by correcting

the inequality caused by the various reductions on the surrounding and adjoining comparables, and the illegal increases on petitioner's property as high as 100% by subdividing the Right of Ways and the front acreage into lots.

The proceeding was brought to force the respondent to abide by the prior decisions of the former State Tax Commission, who had continuously reversed the said department in all of the prior cases, as there has been no changes made to warrant any increase.

The appellate agencies and the courts relinquished their duties and their authority to the real property assessor, and the respondent's counsel supported the assessor blindly, in regard the past, and deliberately now, by ignoring the erroneous and evasive statements, supported only by reference to the word, uniformity or equality, and the reduction of assessment on adjoining and adjacent properties, the negligence in allowing assessment on 200,000 cu. ft. theater, to remain, including the encroachment of said theater on petitioner's land (Easter v. Dundalk Holding Co. Certiorari, case no. 131, O.T. 1958), and the unconstitutional acts of the aforesaid agencies and the courts, in denying the petitioner over his objections, the right to testify and be heard as a witness.

The case presents a substantial question not only because the judgment below is contrary to the decisions of this Court, but also because the federal government and the state governments are more and more making committments to private citizens, such as the 10 year tax exemption, in order to encourage them to undertake business activity deemed desirable from the viewpoint of the public or public good. And the unwarranted and inequitable assessments made in prior years by the assessor on the petitioner's acreage from 150%—250%—730%—480% to the present 400%, all of which were time consuming and expensive even though the petitioner was

successful in all the past proceedings, especially the rehearing before the State Tax Commission in 1958, and which had absorbed about 20 years of litigation, etc.

Therefore, the consolidated cases, Nos. 61-66, are enumerated and described with their comparables, with the lists and the exhibits, etc., as there has been no changes since 1958, etc., in the neighborhood, properties, witnesses and the reasons, except as to the reductions of the assessments on some of the comparables adjoining the petitioner's property as referenced in the Appellant's Brief and Record Extract, pages 6-15, and pages 16-20, in Proof of Evidence by the Facts, of petitioner's Jurisdictional Statement all of which is confirmed in the Brief and Appendix of Appellee and the original Record filed in this Court.

The foregoing represents the consistent altitude which the respondent and the lower courts, etc., have displayed towards pretending but not actually allowing petitioner to testify, or not reporting, or transcribing correctly petitioner's testimony in challenging the correctness of the findings of fact and conclusion of law of the appellate agencies and the lower courts, whose actions were arbitrary and unfair, since the facts are to the contrary. There is no motion by the respondent to dismiss or to affirm.

The proceeding herein has been submitted before 22 judges and since it appears to be unanimous that the tax assessor, whose duty is only to *Recommend*, is permitted to continue to increase the assessments on petitioner's property each year in spite of all the prior reversals and the facts as in this case, the denial of the appeal and or certiorari herein, will have the further effect of stiffening respondent's attitude on future tax assessments, etc., than every Citizen who owns property would be in jeopardy and insecure.

CONCLUSION

For the foregoing reasons, petitioner respectfully urges the Court to grant rehearing of the petition and upon reconsideration to substain the appeal and or to issue the writ. And that the tax paid under protest, in excess of the amount properly chargeable, shall be refunded with interest, from date of payment, 1961, with costs, etc.

Respectfully submitted,

ANDREW J. EASTER,
2801 Adams Mill Road, N.W.,
Apt. 108, Washington 9, D. C.,
(Adams 2-3874)
Petitioner, In Proper Person

CERTIFICATION

It is hereby certified by the undersigned that this petition is presented in good faith and not for delay and that the petition is restricted to grounds which are confined to intervening circumstances of substantial or controlling effect.

ANDREW J. EASTER,
Petitioner.

AFFIDAVIT OF SERVICE
(Jurat dated January 31, 1963)

ANDREW J. EASTER,
Petitioner.